

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FLEET NATIONAL BANK,

Plaintiff,

CIVIL ACTION NO. 05 X 74459 DT

v.

DISTRICT JUDGE ROBERT H. CLELAND

MICHAEL A. O'HANLON, et al.,

MAGISTRATE JUDGE VIRGINIA MORGAN

Defendant.

ORDER SUSTAINING OBJECTION

This matter is before the court on an order of reference for hearing and decision of the objection of the non-party Mackinaw Partners LLC to an October 12, 2005 subpoena, which objections were filed November 22, 2005. Federal Rules of Civil Procedure Rule 45 provides procedures to follow when objections are filed. The rules require the requesting party, after notice to the person subpoenaed, to file a motion to compel. Rule 45(3)(A) states that "upon timely motion, the court may quash or modify the subpoena." In the instant case, more than 60 days have passed since the subpoena was issued and more than 30 days since objections were filed. No motion to compel has been filed. Counsel for the objection party has informed the court that no hearing was necessary as there was no pending motion to compel.

Thus, the court deems the objections sustained without the necessity of a hearing.

SO ORDERED.

s/Virginia M. Morgan
VIRGINIA M. MORGAN
UNITED STATES MAGISTRATE JUDGE

Dated: January 6, 2006

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PROOF OF SERVICE

The undersigned certifies that the foregoing order was served upon counsel of record via the Court's ECF System and/or U. S. Mail on January 6, 2006.

s/Jennifer Hernandez

Case Manager to

Magistrate Judge Virginia M. Morgan